

**STAFF MEETING MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
COUNTY-CITY BUILDING
ROOM 113
THURSDAY, NOVEMBER 29, 2001
8:15 A.M.**

Commissioners Present: Kathy Campbell, Chair
Bob Workman, Vice Chair
Larry Hudkins
Bernie Heier
Ray Stevens

Others Present: Kerry Eagan, Chief Administrative Officer
Gwen Thorpe, Deputy Chief Administrative Officer
Dave Johnson, Deputy County Attorney
Trish Owen, Deputy County Clerk
Ann Taylor, County Clerk's Office

The Staff Meeting was called to order at 8:15 a.m.

AGENDA ITEM

**1 APPROVAL OF STAFF MEETING MINUTES OF THURSDAY,
NOVEMBER 15, 2001**

Stevens requested that the minutes be corrected to add the word "YORK" after the word "NEW" in the heading for Agenda Item 3.

MOTION: Heier moved and Workman seconded approval of the Staff Meeting minutes of November 15, 2001, as corrected. Heier, Stevens, Workman, Hudkins and Campbell voted aye. Motion carried.

2 ADDITIONS TO THE AGENDA

- A. Acreages in the Comprehensive Plan
- B. Report on Local Emergency Preparedness Committee (LEPC) (Board Member Meetings)
- C. Nebraska Association of County Officials (NACO) Executive Director Search
- D. Floodplain Task Force

MOTION: Hudkins moved and Stevens seconded approval of the additions to the agenda. Hudkins, Stevens, Workman, Heier and Campbell voted aye. Motion carried.

ADDITIONS TO THE AGENDA

A. Acreages in the Comprehensive Plan

Heier said *Blueprint, Charting the course for Lincoln and Lancaster County, November 2001* (a newsletter published by the Lincoln/Lancaster County Planning Department that details Lincoln and Lancaster County 2025 Comprehensive Plan efforts) includes the following statement:

A proposed policy was brought to the Comprehensive Plan Committee related to acreage development.

Heier questioned the source of the proposed policy and said he is concerned that it assumes concurrence by the County Board. He said he would like the Planning Department to develop alternatives for acreages, including densities less than 20 acres and bonuses.

Workman said he attended a community workshop on the Comprehensive Plan at Raymond Central School and said there was mixed response to a proposal of a density of 80 acres in northern Lancaster County.

The Board scheduled a worksession on acreages with the Planning Department, 9 a.m. to 10 a.m. on December 11, 2001.

3 PENDING LITIGATION - Mike Thew, Chief Deputy County Attorney

MOTION: Hudkins moved and Stevens seconded to enter Executive Session at 8:30 a.m. for discussion of pending litigation. Hudkins, Stevens, Heier, Workman and Campbell voted aye. Motion carried.

MOTION: Workman moved and Heier seconded to exit Executive Session at 8:42 a.m. Workman, Heier, Hudkins, Stevens and Campbell voted aye. Motion carried.

4 NEBRASKA CRIME COMMISSION GRANTS - Kit Boesch, Human Services Administrator

Kit Boesch, Human Services Administrator, reviewed *2002-2003 Nebraska Crime Commission Grants* (see agenda packet). She reported that there is an additional grant for a community readiness survey for substance abuse in the amount of \$10,000.

The Board will take action to submit the grants to the Nebraska Crime Commission at the December 11, 2001 County Board of Commissioners Meeting.

5 FISCAL YEAR 2001 STATISTICAL REPORT - Dennis Banks, Lancaster County Juvenile Detention Center Director; Kit Boesch, Human Services Administrator

Dennis Banks, Lancaster County Juvenile Detention Center Director, reviewed *Comparison of Fiscal Year Statistics (Through Fiscal Year 2000/2001)*, noting the following areas (Exhibit A):

- Total Number of Admissions
- Average Daily Population
- Average Length of Stay
- Average Resident Age
- Percentage of Admissions by Gender
- Percentage of Minority Admissions

Board consensus to send a letter to Governor Johanns; the Lancaster County Senate Delegation; Karen Chinn, Chinn Planning, Inc.; Craig Nelson, Interim Executive Director of the Nebraska Association of County Officials (NACO); and Senator Jensen, Chair of the Nebraska Legislature's Health and Human Services Committee, informing them of programs that have been put into place and the impact to juvenile boarding contracts; attaching copies of *Comparison of Fiscal Year Statistics (Through Fiscal Year 2000/2001)* and inviting them to tour the new Lancaster County Youth Services Center.

6 JUVENILE DETENTION CENTER DIRECTOR DUTIES - Dennis Banks, Lancaster County Juvenile Detention Center Director

The Board reviewed the job description with Dennis Banks, Lancaster County Juvenile Detention Center Director (see agenda packet). Banks suggested that the job description differentiate between secure and non-secure detention duties.

Banks distributed *Goals and Issues for the Juvenile Detention Center* (Exhibit B).

ADDITIONS TO THE AGENDA

E. Redistricting Map

MOTION: Heier moved and Hudkins seconded approval of the addition to the agenda. Heier, Hudkins, Workman, Stevens and Campbell voted aye. Motion carried.

ADDITIONS TO THE AGENDA

C. Nebraska Association of County Officials (NACO) Executive Director Search

Workman reported that the list of finalists has been expanded and said a decision is anticipated to be made by December 1, 2001.

D. Floodplain Task Force

Workman said it was erroneously reported in the City Council Meeting minutes that he is the County Board's representative on the Floodplain Task Force. Commissioner Heier still serves in this capacity.

E. Redistricting Map

Dave Shively, Election Commissioner, explained that when the district lines were redrawn two precincts were split. Those precincts will need to be moved, involving a shift of five voters (see Exhibit C for map).

7 ABSENTEE BALLOT MACHINES - Dave Shively, Election Commissioner; Bonnie Sittig, Deputy Election Commissioner; Delores Lee, Election Commission; Todd Mullen, Election Systems & Software (ES&S)

Dave Shively, Election Commissioner, requested authorization to purchase three Votronic Voter terminals and equipment from Election Systems & Software (ES&S) for absentee voting, at a cost of \$27,950. The size of the terminal screens may be increased from 12 to 15 inches, at a cost of \$200 each. American Disabilities Act (ADA) compliant terminals, for the visually impaired, are also available for an additional \$400.

In response to a question from Campbell, Shively said his budget did not include funds for this expense.

MOTION: Hudkins moved and Stevens seconded to approve the request, stipulating 15 inch terminal screens and one American Disabilities Act (ADA) compliant terminal, and directing Dave Kroeker, Budget and Fiscal Officer, to determine the appropriate budget for funding. Hudkins, Stevens, Workman, Heier and Campbell voted aye. Motion carried.

8 LINCOLN PARTNERSHIP FOR ECONOMIC DEVELOPMENT (LPED) -
Mayor Wesely; Mark Bowen, Mayor's Chief of Staff

Mayor Wesely explained that Sherry Hanneman, Lincoln Partnership for Economic Development (LPED), does not have sufficient time available to "pull the pieces together" on economic development projects. He proposed that the City, County, University of Nebraska, and Lincoln Electric System (LES) each contribute an additional \$25,000 to hire a Project Manager at LPED to focus on economic development projects and to represent all of the public entities and the private entities involved and an additional staff person to focus on technology and venture capital issues. Wesely noted that the Chamber of Commerce and LPED Board have agreed to try to raise at least \$50,000 in funds for this purpose.

Wesely proposed formation of a committee to develop job descriptions and salaries for these positions and to participate in the hiring.

Board consensus was to have the Chair represent the County Board on the committee.

MOTION: Hudkins moved and Heier seconded approval of the request to commit \$25,000 in funds for hiring two additional staff for the Lincoln Partnership for Economic Development (LPED) to assist in economic development efforts. Hudkins, Heier, Stevens, Workman and Campbell voted aye. Motion carried.

Campbell suggested that the Board also review the County's contract with Troy Gagner, Economic Development Coordinator, to see how it fits with LPED efforts.

9 COUNTY SUPPORT STAFF LUNCHEON - Georgia Glass, Personnel Director

Georgia Glass, Personnel Director, asked whether the County Board would like the Personnel Department to extend an invitation to the County's clerical and para-professional staff to attend quarterly support staff luncheons.

The Board indicated that it would and asked Glass to draft a letter of invitation for the signature by the Board.

10 ONE AND SIX YEAR ROAD AND BRIDGE IMPROVEMENT PROGRAM; NORTHWEST 70TH STREET PROJECT - Don Thomas, County Engineer

One and Six Year Road and Bridge Improvement Program

Don Thomas, County Engineer, requested the following amendments or corrections to the One and Six Year Road and Bridge Improvement Program:

1. Correction to the long-range program regarding the relocation of Wildrose Lane. The map should indicate the new Wildrose Lane to be slightly south as an extension of Fletcher Avenue from that indicated on the map for the long-range program.
2. Correction to the long-range program regarding East Old Cheney between South 112th and South 127th Streets. The map and the text indicate a mile of paving to occur at this location. The project has changed and the part indicated for paving should be shown as grading.
3. Request that Northwest 27th Street, between the Alvo Road and the Waverly Road, be added to the Six-Year Program for engineering.
4. A request was received from the Superintendent of Schools at Norris to add the Princeton Road for improvements in the first half mile going west from South 68th Street. County Engineering agrees that this should be added to the Six-Year Program for engineering.
5. A request was received from the Superintendent of Schools at Malcolm to add the Bluff Road, for at least 1/4 mile, going east from Northwest 112th Street, for paving. County Engineering requests that this be added to the Six-Year Program, in standby status, for further investigation and scheduling.

Northwest 70th Street Project

Hudkins noted a letter received from James Griesen, University of Nebraska Vice Chancellor for Student Affairs, indicating that the University is unable to contribute financially to the improvement of Northwest 70th Street (provides access to the University's new Outdoor Education Training Center), due to budget cuts, but is willing to provide right-of-way for the roads that abut its property (see agenda packet). He noted that several of the adjoining property owners have agreed to donate the necessary right-of-way for the project and asked what the County can do to move ahead with the project.

Thomas explained that the project comes under the Rock and Dirt Road Program and said there is not a formalized policy for this program, rather the work is done in order of ease and when the request was received. Thomas said most of the projects are staged in the One and Six Year Road and Bridge Improvement Program and priority is only given to those projects in which there is a contribution towards costs.

Hudkins said the original request for improvement of the road was made by a property owner seven years ago and asked whether it makes a difference that at least a mile of the road was gravel, at one time.

Thomas reported that the road reverted back to dirt in the late 1970's. He said the road could be rocked without violating standards, because it was "grandfathered in", but said the intersection with Adams would need to be improved to withstand the anticipated traffic.

In response to a question from Hudkins, Thomas said the road design is nearly complete, but the scope of the project has changed. The next step will be appraisal and right-of-way acquisition. He said extensive grading will be required and the road will be expensive to build.

Hudkins asked what funds are needed to expedite the project or to designate it in the One and Six Year Road and Bridge Improvement Program.

Thomas said "I don't think its likely to be done next summer under any circumstances." He said a great deal is dependent upon the landowners and whether they are willing to donate the right-of-way.

Hudkins asked whether the road could be graded in the fall of 2002, if the landowners donate the right-of-way.

Thomas said a lot would need to be resolved before the bids for grading are let in February or March of 2002. He said the project would cause a great deal of grading work to be compressed into a grading season and said the County's current contractors would probably be unable to handle the additional work. Thomas added that the County will need to hire a consultant to handle the right-of-way acquisition, as his staff will be working on other projects.

The Board asked Thomas to provide the following:

1. An estimate of costs and timetable for the project, with and without donation of right-of-way
2. A written explanation of the "informal" Rock and Dirt Road Program policy
3. The status of the other projects in the Rock and Dirt Road Program

The Board directed Kerry Eagan, Chief Administrative Officer, to send a letter to James Griesen, University of Nebraska Vice Chancellor for Student Affairs, indicating that the County Board is reviewing the request for improvements to Northwest 70th Street and asking whether the University of Nebraska plans to continue with its plans for the Outdoor Education Training Center, with a response requested by December 20, 2001.

11 UPDATE ON CABELA'S AND AT HOME HEARING SERVICE - Troy Gagner, Economic Development Coordinator; Mike Thew, Chief Deputy County Attorney; Dave Johnson, Deputy County Attorney; Dave Rohr, Cabela's

Cabela's

Campbell explained that Cabela's sought an economic development grant/loan from the County and was asked to provide a statement of collateral. Cabela's indicated to the Board that its loan agreement with its banking group prohibits liens against the assets of Cabela's, with certain narrow exceptions that would not apply to the economic development loan, and asked that the agreement be approved without collateral. The Board asked Cabela's to provide an alternative solution.

Dave Rohr, Cabela's, said his company signed the loan agreement in March, 2001 and had assumed that the deal was complete. Cabela's met its job creation/retention requirements for the first reporting period, but did not receive the expected payment. Cabela's was then informed by the County Attorney's Office that additional language was needed in the contract with regards to affirmative action. Cabela's agreed to the change and resigned the agreement. Cabela's was subsequently informed that collateral and recapture provisions were required for the loan portion of the agreement. Rohr said this had not been brought up in previous discussions and was not a part of the negotiations. Cabela's informed the County that it is prohibited from allowing liens on any of its assets. Rohr said the County asked Cabela's to "carve out" an exception, but said it would be costly and time consuming to do so. A letter of credit was also suggested, but this would also involve a cost that was not negotiated. He said Cabela's does not believe it should have to incur the cost of obtaining the collateral, especially since it was not negotiated up front.

Rohr reported that Cabela's has entered into similar contracts in other jurisdictions and said when the issue of collateral has been raised in negotiations, Cabela's has explained that is prohibited from pledging its assets but, if credit is the issue, has offered to allow the lender to view its financial statements and contact its bank references.

Rohr said "This has made a negative impression on our Board. We are not happy. We've been owed, as I understand it, over \$300,000 for probably six months, coming on six months, and haven't seen the money. There's a cost of money to that." Rohr said one member of the Cabela's Board of Directors has suggested that the County should pay the interest on the carry back. He said "We would like to get this thing back on track. We'd like to be friends and have a good relationship. We think we can add a lot of value to the Lincoln community. We have a lot of plans for expansion. We'd like to put those jobs in Lincoln, absent this agreement, we're going to rethink that."

Rohr said "If credit is the issue, to secure a recapture provision, I welcome your Chief Financial Officer (CFO) to examine our financial statements." He added "We've met, we feel, all of our conditions of the agreement. We've exceeded them. At this point, we'd like the other parties to step up to the table and fulfill their commitments."

Mike Thew, Chief Deputy County Attorney, said he reviewed the agreement when it was scheduled for action by the County Board and had questioned why it lacked security provisions for the loan portion of the agreement. He said Cabela's has provided his office a section of the loan agreement with its banking group and said it appears that there's an exception to the "no lien" portion of the agreement of up to \$5 million. Thew said it is not clear why that exception would not apply in this case.

Thew noted that the County has not adopted guidelines that "absolutely require collateral for any loans of grant funds." He said he is also unaware of any legal requirement, state or federal, that would require the grant funds to be secured, if distributed in the form of a loan. It would, however, be a departure from past practice. Thew added that "until this deal is signed, nobody owes anybody, anything."

Heier said he recalls that several months ago there was a "gentleman's agreement" that the County would forgive the money, provided Cabela's met certain job creation/retention requirements. He said he did not recall any discussion of collateral, at that time.

Workman concurred, and said "If we owe some money here, I think we had better pay it, as soon as possible."

Dave Johnson, Deputy County Attorney, explained that frequently there are details that are not discussed in negotiations.

Rohr said Troy Gagner, Economic Development Coordinator, had led him to believe that it was "a done deal".

Thew said part of the problem is that the process was unusual and did not involve Gagner from the beginning.

Stevens said that although he regrets that the collateral issue didn't come up earlier, he is also concerned with setting a precedent. He also noted concern with Rohr's tone of voice and the attitude of Cabela's Board of Directors. Stevens said "We're trying to cooperate and trying to do something to benefit Lancaster County, which is our first interest."

Hudkins added "We went to great lengths to find a way to help you."

Campbell said she sat in on the initial discussions with Cabela's at the invitation of Mayor Wesely, the Lincoln Partnership for Economic Development (LPED), and Chamber of Commerce and said she regrets that all of the requirements were not clearly defined at the beginning. She added that statements that were made at a subsequent press conference would have led Cabela's to believe that "yes, we did have a deal".

Campbell said the Board had asked Cabela's to provide an alternative solution and said their offer to allow the County's Chief Financial Officer to review its financial statements appears to fulfill that request. She suggested that the County have Dave Kroeker, Budget and Fiscal Officer; Troy Gagner, Economic Development Coordinator; and the County Attorney's Office conduct the review and include this stipulation in the agreement.

Gagner noted that the agreement includes a provision for annual review of financial statements.

MOTION: Heier moved and Workman seconded to proceed with the financial statement review and to schedule the project financing agreement with Cabela's for action on the December 4, 2001 County Board of Commissioners Meeting agenda. Heier, Workman, Hudkins, Stevens and Campbell voted aye. Motion carried.

At Home Hearing Service

Dave Johnson, Deputy County Attorney, recommended that the Board take action at the December 11, 2001 County Board of Commissioners Meeting to accept the \$5,200 check submitted by Jeff Priest, At Home Hearing Service, and take action the following week to release the liens on Priest's three motor vehicles. He said the economic development loan agreement will remain in place.

12 CONSENT ITEMS

- A. Vacation Request from Mike Thurber, Corrections Director, for November 28-30, 2001
- B. Authorize Kerry Eagan, Chief Administrative Officer, to Sign Proxy for Fidelity Advisor Growth Opportunities Fund

MOTION: Heier moved and Hudkins seconded approval of the Consent Items. Heier, Hudkins, Stevens, Workman and Campbell voted aye. Motion carried.

13 ADMINISTRATIVE OFFICER REPORT

A. InterLinc Update

Gwen Thorpe, Deputy Chief Administrative Officer, reported that a "new, temporary" InterLinc website will go live on December 3, 2001. She said the County pages will remain the same.

B. Meeting Between Region V Executive Committee and Behavioral Health Advisory Executive Committee, 9 a.m., December 3, 2001

Commissioners Campbell and Heier will attend the meeting, but will ask that it be rescheduled for 10 a.m. to allow them to attend the City-County Common Meeting.

C. Lancaster County Agricultural Society Update

Mike Thew, Chief Deputy County Attorney, said a County Attorney's opinion is forthcoming on questions related to the Lancaster County Agricultural Society's plans to secure a business loan in the amount of \$375,00 (\$334,000 will be used to reimburse the Building Account for funds that were borrowed to pay for operating shortfalls during the first year of the Event Center's operations and to establish a small reserve and the remaining \$150,000 will be used as a line of credit). He said his office holds that the Ag Society and Lancaster County Fairgrounds Joint Public Agency lack the authority to pledge the land as collateral for a loan, which makes the other issues moot.

Hudkins asked whether the Ag Society could mortgage buildings attached to the land.

Thew said the agreement specifically states that the land and improvements are also pledged for payment of the bonds, so the lender would be subordinate to the bond holders.

Hudkins said there is still unused bond authority and asked that this alternative be researched.

Workman suggested that the Ag Society pledge operating revenue as collateral.

Board consensus was to have Commissioner Campbell; Commissioner Workman; Mike Thew, Chief Deputy County Attorney; Kerry Eagan, Chief Administrative Officer; Dave Kroeker, Budget and Fiscal Officer; and Eric Bergquist, Cline Williams Law Firm; meet with representatives of the Ag Society to discuss the matter further.

D. Financial Services Agreement

Dave Kroeker, Budget and Fiscal Officer, said the County's agreement with Ameritas Investment Corporation for financial services expired July 31, 2001. He recommended that the agreement be extended to October 29, 2003, to be in sync with the City's contract with Ameritas, and that Section XIV be amended to allow the Contractor, with the written consent of the County Board, to proceed with a negotiated sale in a small issue or "difficult to sell" issue, when it is in the County's best interest.

14 DISCUSSION OF BOARD MEMBER MEETINGS

- A. Board of Health - Hudkins
- B. District Energy Corporation - Heier, Hudkins
- C. Families First & Foremost (F³) Conveners Group - Heier, Stevens
- D. Saltwater Tiger Beetle Committee - Workman
- E. Budget Monitoring Committee - Campbell, Stevens
- F. Public Building Commission - Campbell, Hudkins
- G. Community Mental Health Advisory Committee - Stevens

Items A-G were held.

- H. Local Emergency Preparedness Committee - Workman

Workman reported that Emergency Management did not receive the \$17,500 grant it had sought from the Nebraska Emergency Management Agency (NEMA) for weapons of mass destruction training, but plans to ask for reconsideration of the request.

15 ADJOURNMENT

MOTION: Heier moved and Stevens seconded to adjourn the meeting at 12:14 p.m. Heier, Stevens, Workman, Hudkins and Campbell voted aye. Motion carried.

Bruce Medcalf
County Clerk